IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.478 OF 2004

Jayesh Bhagwandas Chandnani ... Applicant.

V/s

Sr. Inspector of Police
Taloja Police Station. ... Respondent.

Mr. Shirish Gupte with Mr. P.D. Desai i/b M/s. Little & Co. for the applicant.
Mr. D.P. Adsule, APP for the State

CORAM: V.M.KANADE,J.

DATE: 20th April, 2005

P.C.:

1. Applicant is challenging the order passed by the Additional Sessions Judge, District Raigad, Alibag who has dismissed the application of the applicant for return of the property and for restoration of the order passed by the Judicial Magistrate, Ist Class, Panvel on 13/09/2004.

2. Brief facts are that on 30/07/2004, Inspector of Police, Taloja registered an offence under C.R. No. 86 of 2004 under section 465, 368, 471, 420 read with section 34 of the Indian Penal Code and section 51 and 63 of Copyright Act and also under section 78, 81, and 102 of the Trade & Merchandise Act, 1958 and seized the goods from the factory premises of the accused. The goods which were seized consisted of Baby Shampoo,

baby oil filled in bottles but there was no label on either side of the bottles. Further, the petroleum jelly was also seized which was filled in tin but no label was attached to the tin. Accordingly, after the goods were seized, panchanama to that effect was made. Further, the container which was sent in the lorry was also seized by the Inspector of Police, Taloja Police Station and the goods were brought to Taloja Police Station.

3. An application was made before the Judicial Magistrate, First Class, Panvel for return of the property to the applicant and the said application was allowed and the applicant was directed to furnish indemnity bond of Rs 12 lacs and he was also directed to furnish security bond of Rs 12 lacs by furnishing Bank Guarantee or solvent security of the said amount. This order was challenged by the Inspector of Police in the Court of the Additional Sessions Judge, District Raigad. The Criminal Revision Application was allowed and the order of return of the property was set aside. This order passed by the Additional Sessions Judge is challenged in this Court. Applicant is seeking quashing of the said order passed by the Additional Sessions Judge.

4. The learned Counsel appearing on behalf of the applicant submitted that he does not wish to press for return of the property. He has submitted that since the goods are lying in the premises and by the time trial is over, the goods would be worthless as they are perishable in nature, they may be auctioned as car washing shampoo so that there was no question of misuse of the said goods being used as baby shampoo or baby oil or for any human use. He submitted that the amount which is recovered from such sale may be deposited in the trial court so that if the applicant succeeds in the trail, he could make an application for return of the said amount.

5. The learned APP appearing on behalf of the State vehemently opposed the submission made by the learned counsel appearing on behalf of the applicant. He submitted that it is not possible to know the condition of the goods as they are lying in the container since last one year. He submitted that unless the analysis of the contents is made by Chemical Analyser, it would not be advisable to auction the same.

6. In my view, no useful purpose would be served by keeping the said container in which the goods which

are seized from the applicant are stored as, inevitably, by the end of the trial, the said goods would be worthless for any kind of use. In my view, the request made by the learned counsel appearing on behalf of the applicant appears to be reasonable and if the goods are sold with specific condition that they shall not be used as baby shampoo or baby oil or for any other human use then the apprehension raised by the learned APP can be taken care of.

7. Thus, the respondents are directed to retain certain sample boxes for the purpose of using them during trial and to send the sample product to the Chemical Analyser for analysis and to obtain certificate whether the same can used for washing cars as car shampoo. The Chemical Analyser to send the report within four weeks to the respondents - Inspector of Police, Taloja Police Station. If the Chemical Analyser gives a positive report stating that it can be auctioned for the purpose of being used as car shampoo then a public advertisement may be issued at the cost of the applicant in two news papers; one in English and other in Marathi or Gujarati and fix a date of auction. Applicant is directed to state in the advertisement that the said product is being sold as car shampoo only and the said goods may be sold to

the highest bidder and the money obtained in the auction to be deposited in the trial court. The Trial Court is directed to monitor the auction in an appropriate manner. The order passed by the Sessions Court is modified accordingly.

8. With the above directions, Criminal Revision Application is disposed of.

V.M. KANADE, J.